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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,870	03/30/2004	Akira Maruyama	02-116	2438
23400	7590	01/03/2006	EXAMINER	
POSZ LAW GROUP, PLC 12040 SOUTH LAKES DRIVE SUITE 101 RESTON, VA 20191			KIM, CHRISTOPHER S	
			ART UNIT	PAPER NUMBER
			3752	

DATE MAILED: 01/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/811,870

Applicant(s)

MARUYAMA, AKIRA

Examiner

Christopher S. Kim

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,5,7,17,19-24,26 and 27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,5,7,17,19-24,26 and 27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. The response filed November 8, 2005 is acknowledged.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Specification***

3. The amendment filed November 8, 2005 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: in the paragraph that begins on page 6, line 10, "... the lower body is made of resin material..."; in the paragraph that begins on page 7, line 23, "...the upper body is made of resin material..."

Applicant is required to cancel the new matter in the reply to this Office Action.

### ***Claim Rejections - 35 USC § 112***

4. Claims 1, 5, 7, 17, 19-24, 26 and 27 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to

reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The disclosure, as originally filed, fails to disclose the "first body part is made from a resin material" and the "second body part...is made from a resin material" recited in claim 1. Claims 20 and 21 contain similar recitations. If the Examiner has overlooked such disclosure in the originally filed application, applicant is requested to identify such disclosure.

5. Claims 1, 5, 7, 17, 19-24, 26, 27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1, 20 and 21, the preamble recites the subcombination of a washer nozzle but the claim body contains functional recitation directed to the fluid being jetted out of the nozzle against the windshield. It is uncertain whether applicant is claiming a combination or a subcombination.

### ***Claim Rejections - 35 USC § 103***

6. Claims 21, 23, 26, 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dewitt et al. (5,657,929) in view of Joiner (2,081,457).

Dewitt et al. discloses a washer nozzle 34, 74, 32 comprising: nozzle body including a first body part 68 and a second body part 72; at least one jet outlet (outlet of 72); a check valve 40, 58; a filter 76; a spring 62.

Dewitt does not disclose the filter 76 being formed integrally with a portion of the nozzle body. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided an integral filter and nozzle body to ease assembly, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *In re Larson*, 340 F.2d 965, 968, 144 USPQ 347, 349 (CCPA 1965). Joiner teaches, in figure 2, a filter 7 being a separate element from body part 9 and teaches an equivalent body part and filter being formed integrally in figures 6-11.

Regarding the recitation "maximum width of each filter hole is smaller than an inner diameter of each of the at least one jet opening," such limitation is inherent in the filter of Dewitt. Otherwise, the filter would not serve its purpose.

7. Claims 1, 5, 7, 17, 19-24, 26, 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barlow (3,297,260) in view of Joiner (2,081,457).

Barlow discloses a washer nozzle comprising: nozzle body including a first body part 14 and a second body part 12; at least one jet outlet 24; a check valve 40, 52; a filter 46; a spring 62.

Barlow discloses the limitations of the claimed invention with the exception of the resin material and the filter being formed integrally with the first body part.

Resin material is well known in the art. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have made the first and second body parts of Barlow from resin material to prevent corrosion.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided an integral filter and first body part to ease assembly, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *In re Larson*, 340 F.2d 965, 968, 144 USPQ 347, 349 (CCPA 1965). Joiner teaches, in figure 2, a filter 7 being a separate element from body part 9 and teaches an equivalent body part and filter being formed integrally in figures 6-11.

Regarding the recitation "maximum width of each filter hole is smaller than an inner diameter of each of the at least one jet opening," such limitation is inherent in the strainer of Barlow. Otherwise, the strainer would not serve its purpose.

Regarding claim 17, Barlow discloses the limitations of the claimed invention with the exception of the O-ring. O-rings are well known in the art. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided an O-ring between the first and second body parts in the device of Barlow to prevent leaks.

### ***Response to Arguments***

8. Applicant's arguments filed November 8, 2005 have been fully considered but they are not persuasive.

Applicant argues that the specification has been amended to that the first and second body parts are made of resin material and are separate. It appears that such an amendments constitutes new matter.

Applicant argues that claims 1, 20 and 21 are not indefinite and that the windshield is not positively recited as an element of the invention. Claim 1 recites "...the washer fluid is jetted out of the nozzle body against the windshield..." Claims 20 and 21 contain similar recitations. Although the windshield is not positively recited, the claimed invention contains functional recitation directed to the windshield, hence the indefiniteness.

Applicant argues that the filter is separate from the nozzle body (specifically, the first body part). Joiner teaches, in figure 2, a filter 7 being a separate element from body part 9 and teaches an equivalent body part and filter being formed integrally in figures 6-11.

In response to applicant's argument that Joiner is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Joiner is reasonably pertinent to the particular problem with which the applicant was concerned, an integral filter and nozzle body.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. Kim whose telephone number is (571) 272-4905. The examiner can normally be reached on Monday - Thursday, 6:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel can be reached on (571) 272-4919. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3752

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Christopher S. Kim  
Primary Examiner  
Art Unit 3752

CK